IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dilip Kumar Bhansali. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No.775/2003 against the order dated 23-4-2003 passed by the Judicial Magistrate Nokha, district Bikaner,. In Criminal Case No. 387/2002.

...

Date of Order: November 02, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Mahesh Thanvi, for the petitioner.
Mr. N. Moolchandani, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 23-4-2003 passed by the Judicial Magistrate, Nokha, district Bikaner (for short, "the trial Court" hereinafter) in Criminal Case No. 387/2002, whereby the trial Court directed the petitioner to produce the truck No.RJ.19G-615 in the Court on the ground that accused in that case has not been appearing before the trial Court and on his non-availability, the warrant could not be executed.

I have heard learned counsel for the parties. Carefully gone through the order impugned.

It is contended by the learned counsel for the petitioner that accused Balvindra Singh was the driver on the said truck, who caused the accident and a criminal case has been registered against the driver. The driver was enlarged on bail by the trial Court; however, subsequently he failed to appear before the trial Court. The petitioner is neither the surety to the accused (driver), nor in any manner responsible to produce him before the trial Court. The petitioner is the registered owner of the truck in question and the said truck was released on Supurdginama in favour of the petitioner on certain terms and conditions. The petitioner has not violated any of the terms and conditions of Supurdginama. It is not the case of the prosecution that the said truck is required in evidence. It is only to pressurize the registered owner of the truck to produce the accused. The accused has left the job and, therefore, the petitioner has no knowledge about the whereabouts of the accused. More so, for the non-appearance of the accused, the petitioner is not responsible in any manner and is under no obligation to produce the accused before the trial Court.

Keeping in view the fact that the truck is not sought for production in the evidence, in my view, the trial Court fell in error in directing the petitioner to produce the truck. There is no

violation of the terms and conditions of the Supurdginama. Therefore, the direction of the trial Court for producing the truck is liable to be set aside.

The criminal miscellaneous petition is allowed. The impugned order dated 23-4-2003 passed by the trial Court, directing the petitioner to produce the truck in the Court, is set aside.

(H.R. PANWAR), J.

mcs